



## COMMONWEALTH of VIRGINIA

### DEPARTMENT OF TRANSPORTATION

1401 EAST BROAD STREET  
RICHMOND, VIRGINIA 23219-2000

GREGORY A. WHIRLEY  
COMMISSIONER

June 6, 2011

TO: County Administrators/City & Town Managers:

RE: 2011 Legislative Update

As the new fiscal year quickly approaches, I wanted to take this opportunity to update you on transportation related legislation approved by the General Assembly and signed by the Governor that may be of interest to your locality. These bills are effective July 1<sup>st</sup> and are summarized briefly below. In addition, a summary of all transportation related legislation signed by the Governor this year is available at:

[http://www.virginiadot.org/VDOT/Projects/asset\\_upload\\_file207\\_5721.pdf](http://www.virginiadot.org/VDOT/Projects/asset_upload_file207_5721.pdf). Specific information for all bills can be found on the General Assembly's Legislative Information System website (<http://lis.virginia.gov>).

#### **HB 1726 – (Chapter 620) Bridge Clearance Signage.**

- Amends §46.2-1110, and
  - Provides that on any highway maintained by a county, city or town over which a bridge or structure has a vertical clearance of less than 14 feet, the governing body is responsible for providing vertical clearance signage in accordance with the Code. Clarifies that localities that maintain their roadways are also responsible for assuring that bridges and structures are properly signed.

#### **HB 1758 – (Chapter 400) Local Roads Notice.**

- Amends §10.1-603.8 B. 8. , §33.1-23.3 and 33.1-70.2, and
  - Provides that hard surfacing of Rural Rustic Roads shall be subject to the provisions of §10.1-603.8, which was modified to provide that the paving of an existing unpaved road that has a compacted or impervious surface and reestablishment of existing associated ditches and shoulders will be deemed routine maintenance for the purpose of Virginia stormwater regulations. Previously this activity could have been classified as a land disturbing activity and subject to the Virginia stormwater regulations.
  - Provides that any city or town that decides to take over responsibility for its construction program shall notify the Commonwealth Transportation Board (CTB) by December 31<sup>st</sup> for implementation the following fiscal year (July 1<sup>st</sup>). Previously, notice would have to be provided no later than July 1<sup>st</sup> for implementation the following fiscal year. VDOT has streamlined its processes to allow a more expedited transition.

- Eliminates the requirement for a public hearing when VDOT undertakes emergency paving of an unpaved secondary road. The local governing body will still need to provide its concurrence or other recommendations within 72 hours following receipt of VDOT's notice. The current Code requires the local government to hold a public hearing on the proposed emergency paving thereby preventing the timeliest response to these emergency situations.

**HB 1825 (Chapter 036) / SB 1005 (Chapter 152) Commonwealth Transportation Commissioner.**

- Amends § 33.1-1 §33.1-34, §33.1-35, §33.1-154 and §33.1-155, and
  - Changes the title of "Commonwealth Transportation Commissioner" to "Commissioner of Highways"; and
  - Allows a streamlined process for the abandonment, discontinuance or transfer of roads between systems when the action is in connection with the completion of a construction or maintenance project.

**HB 2233 (Chapter 493) / SB 1004 – (Chapter 434) Transportation Agency Efficiencies and Cost Recovery.**

- Amends §17.1-276, 33.1-41.1, 33.1-70.01, and
  - Exempts VDOT and the Department of Rail and Public Transportation (DRPT) from paying any fees for remote access to electronic land records.
  - Provides that annual maintenance payments made to cities and towns shall be annually adjusted by the base rate of growth planned for the Department's Highway Maintenance and Operations program. This codifies the current practice and eliminates the reference to the maintenance cost index (MCI) which has not been used since 2003.
  - Provides that if any county cancels a highway improvement project included in the six-year plan after the location and design for the project has been approved, the county shall reimburse the Department the net amount expended up to the date of cancellation; unless the Commissioner provides a waiver. This is a modification to the existing code due to a change in process that made the prior language obsolete.

**HB 2527 – (Chapter 830) / SB 1446 (Chapter 868) Transportation Funding.**

- Provides for several funding options to provide additional funding for transportation projects. These include:
  - Issuance of direct Grant Anticipation Revenue Vehicles (GARVEE Bonds).
  - Creation of a Virginia Transportation Infrastructure Bank (VTIB) which establishes a revolving loan fund and grant program to fund transportation projects as determined by the CTB.
  - Accelerated sale of previously authorized Capital Project Revenue (CPR) Bonds (HB 3202).

The funding authorized through the accelerated bonds and issuance of GARVEE bonds is included in the draft Six-Year Improvement Plan (SYIP)

<http://www.vdot.virginia.gov/projects/syp-default.asp> . Guidelines for the (VTIB) are currently being developed.

- Amends §33.1-23.05 - Revenue Sharing program, and
  - Increases the maximum equivalent matching allocation the CTB may make to any county, city, or town up to \$10 million. The Code previously limited the matching allocation to \$1 million.
  - Eliminates previous priority tiers and provides that priority shall be given to allocations that will accelerate projects in the Commonwealth Transportation Six-Year Improvement Plan or the locality's capital plan.
  - Eliminates the requirement that the locality's matching funds must specifically be provided from that locality's General Fund.
  - Increases the maximum allocation the CTB may make to the Revenue Sharing Program up to \$200 million. The Code previously limited the maximum program amount to \$50 million.
  - Provides that the funds allocated by the CTB for the Revenue Sharing Program shall be distributed and administered in accordance with revenue sharing guidelines established by the Board.

**SB 1112 – (Chapter 554) Metropolitan Planning Organizations.**

- Amends §33.1-23.03:01 and establishes a new §33.1-223.2:25, and
  - Directs the CTB, the Department and DRPT to develop and implement a decision making process that gives Metropolitan Planning Organizations (MPO's) and regional planning bodies a meaningful opportunity for input in the development of the Six Year Improvement Program.
  - Provides that MPO's shall be responsible for the development of long-range transportation plans for the regions which they represent in accordance with federal regulations to include a public involvement process in the development of such LRTPs, and to forward approved LRTPs to the CTB.

**SB 1221 – (Chapter 888) Local Rezoning Actions.**

- Amends §15.2-2222.1, and
  - Provides for a more streamlined review by VDOT when a property being considered for rezoning has already been subject to a VDOT review in connection with development of a local comprehensive plan.

**SB 1135 – (Chapter 164) Powers and Duties of the CTB.**

- Amends §33.1-12, §33.1-23 and §33.1-23.03. Repeals §33.1-21, and
  - Clarifies that CTB location approval is not required for those roads located within the urban system of highways, or a county maintained system. Localities that maintain and operate their own road infrastructure are responsible for location approvals on those systems.
  - Authorizes the Commissioner to let contracts for the construction, maintenance and improvement of roads comprising the state system of highways up to \$5 million without prior concurrence of the CTB. The current Code limits this authorization to \$2 million.
  - Provides that pursuant to an agreement having been signed between the Department and a locality, authority or transportation district for highway construction, maintenance and/or improvements, that entity may let contracts of any value without prior concurrence of the Commissioner or the CTB within their jurisdictions in

accordance with the provisions of the Code of Virginia. The current Code requires concurrence of the Commissioner or the CTB before a locality may let a contract.

**SB 1206 – (Chapter 647) Traffic Impact Analysis.**

- Amends §15.2-2222.1, and
  - Eliminates the requirement that a locality submit to VDOT a subdivision plat, site plan or plan of development and associated traffic impact analysis for developments that substantially effects transportation on state controlled highways. Plans, plats, and traffic information must still be submitted to VDOT with respect to any entrance permit request or as may be required by the Secondary Street Acceptance Requirements.
  - Requires VDOT to revise the regulations that require the submission of subdivision plats, site plans or plans of development by a locality as previously required for as-of-right development.

**SB 1462 – (Chapter 870) VDOT Regulations.**

- Amends Chapters 527 and 563 of the 2006 Acts of Assembly, and
  - Directs VDOT to review and adopt appropriate revisions to Traffic Impact Analysis Regulations, Secondary Street Acceptance Requirements, and Access Management Regulations (the latter only with respect to impacts on entrances to family divisions of land) no later than January 1, 2012.

I hope this proves to be helpful. As you can see from the above, this was a busy session for transportation. VDOT is working with our many partners to update or provide new guidelines, policies and procedures for the various programs affected or created by these changes. Additional information on individual programs will be communicated in a variety of ways. If you have any questions or need additional information, please feel free to contact your local VDOT office or you can reach me at 804-786-2745 or by email at [Michael.Estes@VDOT.Virginia.gov](mailto:Michael.Estes@VDOT.Virginia.gov).

Sincerely,

Michael A. Estes, P.E.  
Director, Local Assistance Division

cc: Virginia Association of Counties  
Virginia Municipal League  
Mr. Richard L. Walton, Jr., VDOT  
Mr. Keith Martin, VDOT  
VDOT District Administrators

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bc:     Executive Team  
         District Planning and Investment Managers  
         Division Administrators